

*Bickel fails to mention
Brener defended figures
involved in the probe.*

New Orleans enjoyed the circus

The Garrison Case

*A Study in the
Abuse of Power.
By Milton E. Brener.
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By ALEXANDER M. BICKEL

In the fall of 1966, a barrage of criticism was loosed against the Report of the Warren Commission on the Assassination of President Kennedy. Some of the criticism was judicious and well-taken. Much of it was wild, and there was no prospect that it could ever be stilled. But its credibility was obviously enhanced by the doubts of responsible critics. These, in turn, could be dealt with rationally. It appeared for a moment late in 1966 that they would be. A reinvestigation of one sort or another seemed a distinct possibility.

Just at this point, the District Attorney of New Orleans, one Jim Garrison, burst on the scene with an official inquiry. It had all the trimmings, subpoenas, witnesses, charges of conspiracy, and eventually an arrest. Everything else stopped. Garrison was a curious figure of a D.A.—he was known locally as the Jolly Green Giant—but he wielded the legitimate, indeed sovereign, power of a state, and he had a strong claim to priority. He successfully pressed that claim until his increasingly implausible case against his supposed chief conspirator-defendant, Clay Shaw, a retired New Orleans businessman, finally collapsed, following a farcical trial, on March 1, 1969.

In two-and-a-half years, Garrison had succeeded in destroying whatever possibility had ever existed of a rational

reinvestigation or the murder of President Kennedy. That is too bad. It is almost certain that Lee Harvey Oswald was the assassin, and that he acted alone, out of unfathomable personal turmoil. It is almost certain. The fact could have been established with greater certainty, and might have been, but for Garrison's imbecility.

That Garrison's pretensions to having "solved" the Kennedy

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assassination were imbecilic, that his prosecution of Clay Shaw was a groundless persecution, and that the dark accusations he came in time to fling at the C.I.A., the F.B.I., Lyndon Johnson and the late Robert Kennedy were desperate ravings—all that has been made clear in many articles and broadcasts, and in Edward Jay Epstein's short book, "Counterplot."

Milton E. Brener, a New Orleans lawyer with intimate experience of Garrison and of his

"investigation," asks the question: What was the motor that drove Garrison — self-delusion, recklessness in the pursuit of political ambition, or a total cynicism?

Mr. Brener is particularly illuminating on Garrison's pre-Shaw case career. It is of a piece entirely with the later one. What makes Garrison tick, Mr. Brener in the end is unable to say. He tends to the hypothesis of self-delusion, but that is rather more symptom than cause. What enabled Garrison to go on ticking, Mr. Brener does know. Prosecutors have immense unchecked power in the American system. We rely on professionalism to impose restraints, but in Garrison's case, this reliance was ludicrous.

We rely also on public opinion, informed by the actions of an independent judiciary, but public opinion in New Orleans is light-headed, and the local judiciary less than rigorously independent. The people enjoyed the circus, and cheered when assorted Christians were thrown to the lions. The responsible organs of public opinion feared the people and their darling. Politicians were in hiding. Fifty businessmen who supported Garrison's oppressions and persecutions with their money (the D.A.'s budget was not enough) must have felt, as Mr. Brener says, that "Garrison was popular. He was obviously going places. The time to tie your fortunes to a rising politician is at the start."

"The Garrison Case" might have been subtitled, "The Demagogue as D.A.," or "Joe McCarthy in Prosecutor's Clothing." It is a cautionary tale, and a terrifying one. It will send shivers up your spine, and thus performs a great public service. On Nov. 9, Garrison won the New Orleans Democratic primary, virtually assuring himself a third four-year term as District Attorney. Only institutional changes in the administration of criminal justice in Louisiana can prevent further abuses of power by Garrison and his like. ■

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